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In re Application of	:	DECISION ON RENEWED
Susumu Yoshida et al	:	
PCT No.: PCT/JP2003/16953	:	
Application No.: 10/540,041	:	PAPERS FILED
Int. Filing Date: 26 December 2003	:	
Priority Date: 27 December 2002	:	
Attorney's Docket No.: IWI-16045	:	UNDER 37 CFR 1.42
For: OIL-IN WATER TYPE EMULSION	:	
COSMETIC COMPOSITION	:	

This is a decision on the "REPLY TO DECISION ON THE RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 USC §371" filed 07 August 2006, which has been treated as a renewed request for status under 37 CFR 1.42.

BACKGROUND

In a decision from this Office on 16 May 2006, the request filed on 01 December 2005 was dismissed. The decision indicated, inter alia, that the residence and mailing address of the legal representative (sole heir) and the deceased inventor had not been provided as required under 37 CFR 1.63.

On 07 August 2006, applicants filed the current response, stating that the enclosed executed declaration stating that Ms. Keiko Nakamura is the sole.

DISCUSSION

A review of the application file still reveals that the declaration does not comply with 37 C.F.R. §1.497(b)(2).

Because the co-joint inventor Tadashi Nakamura is deceased Keiko Nakamura is the sole heir (legal representatives) for the deceased inventor, 37 C.F.R. §1.497(b)(2) indicates that "[i]f the person making the oath or the declaration or any supplemental or oath or declaration is not the inventor (§§1.42, 1.43, or 1.47), the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state (the inventor's citizenship and so on). If the person signing the oath or declaration is the legal representative (sole heir) of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence and mailing address of the legal representative." (see MPEP § 409.01)

In this instance, the declaration has to provide both the deceased inventor and the sole heir's requirements. Thus, citizenship (must), the residence and mailing address of the deceased inventor and the citizenship (must), and the residence and mailing address (should) of the legal representative (sole heir) be provided in the declaration as required under 37 C.F.R. §1.497(b)(2).

Consequently, applicants have not satisfied the requirements under 37 CFR 1.42.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **not accepted**.

Applicant is required to provide an oath or declaration in compliance with 37 CFR 1.497(a)-(b) within TWO (2) MONTHS from the mail date of this Decision. Any reconsideration request should include a cover letter entitled "Second Renewed Submission Under 37 CFR 1.42." Extensions of time are available under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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